

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF WASHINGTON AT SEATTLE

MATTHEW HARTLEY, individually,

Plaintiff,

v.

SUNBELT RENTALS INC., A FOREIGN
CORPORATION DOING BUSINESS WITHIN
THE STATE OF WASHINGTON; CUSTOM
EQUIPMENT, LLC, AND STRATFORD-
CAMBRIDGE GROUP (SGI), A FOREIGN
CORPORATION DOING BUSINESS IN THE
STATE OF WASHINGTON, AND THE
MANUFACTURER OF HY-BRID LIFTS,

Defendants.

CASE NO. 2:24-cv-01078-JHC

STIPULATION FOR FRCP 35
EXAMINATION & ORDER

I. STIPULATION

Plaintiff Matthew Hartley, by and through his attorney of record, Paul A. Lindenmuth &
The Law Offices of Ben F. Barcus & Associates, PLLC; and the defendants, Sunbelt Rentals, Inc.
and Custom Equipment, LLC, by and through their attorneys of record, Philip R. Meade and Rossi

F. Maddalena & Merrick, Hofstedt & Lindsey, P.S and Kyle D. Riley and John D. Barton & Smith

Freed Eberhard, P.C, hereby stipulate as follows:

1. **Notice of FRCP 35 Examination** - Plaintiff shall be examined by Dr. Lawrence Murphy pursuant to FRCP 35, concerning injuries he claims to have sustained subsequent to the Hy-Brid Lift incident on June 14, 2021.
2. **Time and Place of FRCP 35 Examination** - Plaintiff shall present himself for examination by Dr. Lawrence Murphy on July 11, 2025 at 11:00 a.m. at 4636 E Marginal Way S., Ste. B210; Seattle, WA. . Should the interview/examination process not commence within – 45 minutes of the scheduled time, the interview/examination shall be cancelled, and the defense shall not be allowed to reschedule another FRCP 35 examination, unless it can be proven that the examination did not timely commence as a result of “good cause” shown by the defense or upon further order of this Court.
3. **Scope of FRCP 35 Examination** - Dr. Murphy shall conduct an examination of Plaintiff pursuant to the usual manner, conditions and scope of such medical examinations by Dr. Murphy. The physical medicine and rehabilitation examination may include range of motion and reflex testing, but will not include any invasive testing, including but not limited to x-ray, CT scan or MRI testing. Dr. Murphy will use good-faith and best efforts to complete his examination within two (2) hours (absent extenuating circumstances).
4. **Testing Not Permitted** - The plaintiff shall not be subjected or required to submit to any testing other than normal neurological exam to include a mental status exam during the course of the examination process by the defense examiner.
5. **Embarrassing Questions** - The defense examiner should not seek to embarrass or to antagonize the plaintiff. Should such occur, the examination may be aborted to prevent harm to the Plaintiff. The exam will be resumed, at Plaintiff’s cost, at a later date should the exam be found to have been aborted without good cause.
6. **Permitted Inquiry** - The defense examiner shall not inquire as to facts surrounding liability in this case. The inquiry shall be limited to the facts that support Plaintiff’s claim of medical injury including the nature of and mechanism of injury.
7. **Identity of Examiner** - The only examiner authorized to examine the Plaintiff is Dr. Lawrence Murphy. No other examiner shall be present, nor shall any representative of the defendant be allowed to be present. Medical staff and/or a chaperone are allowed as needed.

- 1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
8. **Counsel or Observer Present; audio and videotaping** - Plaintiff shall be entitled to have his counsel present or a nurse-consultant observer of his choice. He shall have the right to audiotape and videotape the proceeding, with master copies of such taping to be maintained by his counsel. Plaintiff intends to have a legal nurse consultant and professional videographer (TJ Pietz) present at the examination. The videographer shall not obstruct the examination. Defendant may obtain a copy of any recording at the Defendant's expense.
9. **Report** - A copy of the report shall be provided to Plaintiff's counsel within timeframes set forth in FRCP 35. Should the trial be set within 60 days of the examination, Plaintiff's counsel shall receive a copy of the report at least 15 days prior to the trial date. . The defense examiner's report shall comply with the requirements of FRCP 35(b). The report shall contain all matters to be testified to at trial known to date and shall otherwise comply with the expert witness requirements of FRCP 26(b). The doctor shall not be permitted to testify at trial, or render opinions concerning matters not disclosed in his report, unless new materials become available to the examiner after his report is provided. The examiner's report shall be supplemented no less than ten (10) days prior to trial with any additional or supplemental opinions.
10. **No Dissemination** - The Court further Orders that no part of the doctor's report, conclusions, opinions, and files may be given or shown to any Defendant or employee of Defendant for any reason beyond the evaluation and handling of the present case. The doctor and Defendant's counsel shall be permitted to use these materials for Trial Preparation and in Trial only. Such materials shall not be disseminated to any other person at any time for any reason without further Order of the Court.
11. **Protective Order** - Plaintiff may move the court for any protective orders Plaintiff feels are required at the conclusion of this case.
12. **Discovery / Deposition**-Plaintiff shall be permitted to depose the defense examiner upon reasonable notice and agreement Pursuant to FRCP 45. The doctor will charge for his deposition according to his fee schedule which is \$1,200/hr. for 2025. Plaintiff's obligation to pay all, or part, of this fee will be reserved and the parties will meet and confer regarding this topic before the deposition occurs.
13. **No Forms to be Completed** - The plaintiff shall not be required to complete any forms requested by the defense examiner. The plaintiff will need to acknowledge in writing that no doctor-patient relationship is being created by the examination.
14. **Preservation of Material Reviewed by Defense Examiner** - The defense examiner shall maintain all materials reviewed in this matter or provided through any defense counsel or representative pending conclusion of this case.
15. **Copy of Order to Defense Examiner** - Defense counsel shall provide a copy of this

Stipulation and Order to the defense examiner at least twenty (24) hours before the examination. Defense counsel shall be responsible to see that the defense examiner is fully aware of the requirements of this Order.

16. **Limitation of Interview/Examination** - The defense examiner shall be limited to an interview/examination in the field of the expertise of the examiner. The examiner shall not conduct an inquiry or examination for other fields outside his or her expertise, however, the examiner may make recommendations for other fields based on his expertise.

The parties stipulate to the above terms and conditions of a FRCP 35 examination as evidenced by the signatures below of the respective counsel of the parties herein.

Dated this 30th day of June, 2025.

The Law Offices of Ben F. Barcus &
Associates, PLLC

/s/ Paul A. Lindenmuth

Paul A. Lindenmuth, WSBA # 15817
Attorney for Plaintiff

SMITH FREED EBERHARD P.C.

/s/ Kyle D. Riley

Kyle D. Riley, WSBA # 38078

/s/ John D. Barton

John D. Barton, WSBA # 45529

*Attorney for Defendant Custom Equipment,
LLC*

MERRICK, HOFSTEDT & LINDSEY, P.S.

/s/Philip R. Meade

Philip R. Meade, WSBA #14671

/s/ Rossi F. Maddalena

Rossi F. Maddalena, WSBA #39351
Attorneys for Defendant Sunbelt Rentals, Inc.

II. ORDER

NOW, THEREFORE, it is hereby

ORDERED, ADJUDGED AND DECREED that the parties having entered into the above Stipulation under the terms and conditions set forth therein, Plaintiff Matthew Hartley shall present himself to be examined by defense examiner Dr. Lawrence Murphy, on July 11, 2025, at 11:00 a.m., at 4636 E Marginal Way S., Ste. B210; Seattle, WA.

DATED this 30th day of June, 2025.

A handwritten signature in dark ink, reading "John H. Chun", is written over a horizontal line.

John H. Chun
United States District Judge